IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:21.03.2002

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THE HONOURABLE MR.JUSTICE A.K.RAJAN

W.P.NO.21579 OF 1994 AND W.M.P.NO.32866 OF 1994

J.Rajendran .. Petitioner

Vs.
1. The Assistant Engineer,
P.W.D.No.I Section,
Tindivanam.
2. The Executive Engineer,
Public Works Department,
Villipuram Division,
Villupuram, V.R.P.District. .. Respondents

Petition under Article 226 of the Constitution of India, praying to issue a writ of certiorari as stated therein.

For Petitioner: : Mr.Muthumani Doraisamy

Respondent: : Mr.M.Liyagat Ali,
A.G.P.

: O R D E R

Petitioner has filed this writ petition praying to issue a writ of certiorari calling for the records of the respondents relating to impugned order in No.410/Ko/17/A.E. Dated 23.12.1994 passed by the Assistant Engineer, P.W.D.No.I Section, Tindivanam, the first respondent and quash the same.
2. In the affidavit filed in support of the writ petition, it is stated that the petitioner is a lessee to a portion of the land within the premises of Sub-Court, Tindivanam , he is running a tea stall from the year 1989. However, the first respondent by his order dated 23.12.1994, informed him that the lease will not be renewed and he should vacate and hand over possession on 31.12.1994. The said lease was granted to him by the P.W.D. Department and therefore, he cannot be evicted and he has got right to continue in possession.
3. No counter has been filed by the respondents.
4. It is seen from the impugned order that the petitioner was granted a 'licence' for the period from 1.12.1989 to 31.11.1990; subsequently it was extended till 31.12.1994. Thereafter the licence was not extended. However, in view of the interim order passed by this Court the petitioner was allowed to run the tea stall till this date. No lease

was granted to the petitioner as contended. Therefore the petitioner has no right to be in possession of the land within the premises of Sub-Court Tindivanam. Therefore, the writ petition is devoid of any merit . Hence the writ petition is dismissed.

5. Before concluding this, it is seen that the P.W.D. has issued licence in favour of the petitioner to run the tea stall within the premises of the Sub-Court, the Sub-Court premises is in possession of Judiciary. When the property is in possession of the Judiciary, P.W. D. Authority has no right to grant any licence without the concurrence of the District Judge of the District. The District Judge also cannot give consent without prior approval by the High Court. Therefore, any licence granted without the concurrence of the District Judge is invalid. Since originally, no concurrence was obtained from the District Judge for issuing licence to the petitioner to conduct a tea stall in the premises of Sub-Court, Tindivanam, the licence originally granted also cannot be said to be valid. The P.W.D. has no right to grant, or renew any licence for any purpose within the Court premises, which is in possession of the judiciary, without the concurrence of the District Judge, who in turn can give such consent only with the approval of High Court.

6. In the result, this writ petition is dismissed as devoid of any merits. However,there will be no order as to costs. Consequently, W.M.P.No.32866 of 1994 is also dismissed.

21.3.2002
Index:Yes/No
Internet:Yes/No
gr.
To
1. The Assistant Engineer, P.W.D.No.I Section, Tindivanam.
2. The Executive Engineer, Public Works Department,Villipuram Division, Villupuram, V.R.P.District.
3.The Subordinate Judge, Tindivanam.

A.K.RAJAN,J

W.P.NO.21579 OF 1994